

AO 243 (Rev 2/95)

MOTION UNDER 28 USC § 2255 TO VACATE, SET ASIDE, OR CORRECT  
SENTENCE BY A PERSON IN FEDERAL CUSTODY

<b>United States District Court</b>		District <u>District of Massachusetts</u>	
Name of Movant <b>J.C. Anderson</b>		Prisoner No. <b>19860-038</b>	Case No. <b>05-10224-GAO</b>
Place of Confinement <b>Low Security Correctional Institution-Allenwood P.O. Box 1000, White Deer, PA 17887-1000</b>			
UNITED STATES OF AMERICA		v	J.C. Anderson <small>(name under which convicted)</small>

**MOTION**

1. Name and location of court which entered the judgment of conviction under attack U.S. District Court,  
District of Massachusetts.

2. Date of judgment of conviction March 26, 2007

3. Length of sentence 120 months' imprisonment.

4. Nature of offense involved (all counts) Conspiracy to possess with intent to distribute  
and possession with intent to distribute cocaine base, Three Counts, in  
violation of §§21 U.S.C. §846 and 841(a)(1) and (b)(1)(C).

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5. What was your plea? (Check one)

(a) Not guilty ☐

(b) Guilty ☒

(c) Nolo contendere ☐

If you entered a guilty plea to one count or indictment, and a not guilty plea to another count or indictment, give details:

N/A

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6. If you pleaded not guilty, what kind of trial did you have? (Check one)

(a) Jury ☐

(b) Judge only ☐

7. Did you testify at the trial?  
Yes ☐ No ☐

8. Did you appeal from the judgment of conviction?  
Yes ☐ No ☒

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9. If you did appeal, answer the following:

(a) Name of court N/A

(b) Result \_\_\_\_\_

(c) Date of result \_\_\_\_\_

10. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications, or motions with respect to this judgment in any federal court?

Yes ☐ No ☒

11. If your answer to 10 was "yes," give the following information:

(a) (1) Name of court N/A

(2) Nature of proceeding \_\_\_\_\_

(3) Grounds raised \_\_\_\_\_

(4) Did you receive an evidentiary hearing on your petition, application or motion?

Yes ☐ No ☐(5) Result N/A

(6) Date of result \_\_\_\_\_

(b) As to any second petition, application or motion give the same information:

(1) Name of court \_\_\_\_\_

(2) Name of proceeding \_\_\_\_\_

(3) Grounds raised \_\_\_\_\_

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(4) Did you receive an evidentiary hearing on your petition, application or motion?

Yes ☐ No ☐(5) Result N/A

(6) Date of result \_\_\_\_\_

(c) Did you appeal, to an appellate federal court having jurisdiction, the result of action taken on any petition, application or motion?

(1) First petition, etc. Yes ☐ No ☐(2) Second petition, etc. Yes ☐ No ☐

(d) If you did not appeal from the adverse action on any petition, application or motion, explain briefly why you did not:

N/A

12. State *concisely* every ground on which you claim that you are being held in violation of the constitution, laws or treaties of the United States. Summarize briefly the facts supporting each ground. If necessary, you may attach pages stating additional grounds and facts supporting same.

CAUTION: If you fail to set forth all grounds in this motion, you may be barred from presenting additional grounds at a later date.

For your information, the following is a list of the most frequently raised grounds for relief in these proceedings. Each statement preceded by a letter constitutes a separate ground for possible relief. You may raise any grounds which you have other than those listed. However, you should raise in this motion all available grounds (relating to this conviction) on which you based your allegations that you are being held in custody unlawfully.

Do not check any of these listed grounds. If you select one or more of these grounds for relief, you must allege facts. The motion will be returned to you if you merely check (a) through (j) or any one of these grounds.

- (a) Conviction obtained by plea of guilty which was unlawfully induced or not made voluntarily or with understanding of the nature of the charge and the consequences of the plea.
- (b) Conviction obtained by use of coerced confession.

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- (c) Conviction obtained by use of evidence gained pursuant to an unconstitutional search and seizure.
- (d) Conviction obtained by use of evidence obtained pursuant to an unlawful arrest.
- (e) Conviction obtained by a violation of the privilege against self-incrimination.
- (f) Conviction obtained by the unconstitutional failure of the prosecution to disclose to the defendant evidence favorable to the defendant.
- (g) Conviction obtained by a violation of the protection against double jeopardy.
- (h) Conviction obtained by action of a grand or petit jury which was unconstitutionally selected and impaneled.
- (i) Denial of effective assistance of counsel.
- (j) Denial of right of appeal.

A. Ground one: Denial of right to appeal.

Supporting FACTS (state *briefly* without citing cases or law): After sentencing, I requested  
counsel to file a notice of appeal, counsel failed to do so.

B. Ground two: N/A

Supporting FACTS (state *briefly* without citing cases or law):

C. Ground three: N/A

Supporting FACTS (state *briefly* without citing cases or law):

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D. Ground four: N/A

Supporting FACTS (state *briefly* without citing cases or law):

13. If any of the grounds listed in 12A, B, C, and D were not previously presented, state briefly what grounds were not so presented, and give your reasons for not presenting them:

N/A

14. Do you have any petition or appeal now pending in any court as to the judgment under attack?

Yes ☐ No ☒

15. Give the name and address, if known, of each attorney who represented you in the following stages of the judgment attacked herein:

(a) At preliminary hearing Unknown

(b) At arraignment and plea Stephen B. Hrones, Esq.

(c) At trial No trial in this matter.

(d) At sentencing Jessica D. Hedges, Esq.

Lewis-Wharf-Bay 232, Boston, MA 02110-3927

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(e) On appeal No appeal filed.(f) In any post-conviction proceeding N/A(g) On appeal from any adverse ruling in a post-conviction proceeding N/A

16 Were you sentenced on more than one count of an indictment, or on more than one indictment, in the same court and at approximately the same time?

Yes ☒ No ☐

17. Do you have any future sentence to serve after you complete the sentence imposed by the judgment under attack?

Yes ☐ No ☒

(a) If so, give name and location of court which imposed sentence to be served in the future: \_\_\_\_\_

N/A

(b) Give date and length of the above sentence: \_\_\_\_\_

(c) Have you filed, or do you contemplate filing, any petition attacking the judgment which imposed the sentence to be served in the future?

Yes ☐ No ☐

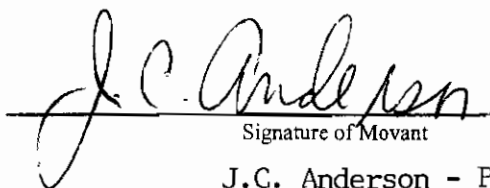
Wherefore, movant prays that the Court grant him all relief to which he may be entitled in this proceeding.

\_\_\_\_\_  
Signature of Attorney (if any)

I declare under penalty of perjury that the foregoing is true and correct. Executed on

March 29, 2008

Date

  
\_\_\_\_\_  
Signature of MovantJ.C. Anderson - Pro Se  
Reg. No. 19860-038  
LSCI Allenwood  
P.O. Box 1000  
White Deer, PA 17887-1000

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STEPHEN HRONES  
JESSICA D. HEDGES

MICHAEL L. TUMPOSKY

February 21, 2008

J.C. Anderson  
LSCI Allenwood  
P.O. Box 1000  
White Deer, PA 17887

Dear JC:

I received your most recent letter regarding your sentencing transcripts. As I stated, I understand your concerns. I have made every effort since October, 2007 to obtain the complete transcripts. On 9/18/07 we sent you a partial transcript of your sentencing hearing. Unfortunately, despite our best efforts we have had a difficult time reaching the Shelly Killian, the court reporter who did the rest of the hearing and the plea. My secretary called Ms. Killian on 10/23/07, 12/5/07, 1/24/08, 2/4/08, 2/19/08. When she did not receive a reply she then called Ms. Killian's supervisor on 2/15/08. The supervisor also had a difficult time reaching her and we learned that she no longer works with the court. Finally, on 2/19/08 Ms. Killian emailed my assistant (see enclosed email). We emphasized the urgency of the matter and she was able to prepare the enclosed transcript.

Finally, the court reporter who originally provided Harvey Cohen's testimony, Catherine Handel, previously insisted that she only did part of the hearing. However, after finally getting a reply from Shelly Killian we were able to confirm that Ms. Killian did not do the remainder of the hearing. We called Catherine Handel back and she realized that she had made a mistake, that she had in fact done the rest of the hearing. She assured us that she would have the transcripts by 2/22/08. We will send that transcript to you as soon as we receive it.

In short, due to the unfortunate confusion of the court reporters involved in this matter it has taken far to long to obtain these transcripts. Please be assured that we have made every effort to ensure that you obtained them in a timely fashion. It seems we have finally put all the pieces together and you should have everything by 3/5/08.

In the meantime I suggest you do several things. You do not necessarily need the transcripts to do the 28 U.S.C. Section 2255 motion. The necessary forms should be available at your facility. You should do the motion *pro se* and ask that a lawyer be appointed to handle the

**EXHIBIT "A"**

motion. (As we handled the sentencing, it would not be appropriate for us to handle the section 2255 motion). You should file this motion right away to preserve your rights, as the date of your sentencing was 3/27/07, and you only have one year from this date to file the motion. The judge will then most likely order the transcripts (which you will hopefully already have from us by then anyway).

Good luck and let us know if we can do anything else to help.

Sincerely,

  
Jessica Hedges